IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2007

Coram :

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

Tax Case (Appeal) No.187 of 2004

Deputy Commissioner of Income-tax,
Special Range I, Madurai. ..Appellant

Vs

M/s.Sundaram Textiles Ltd.,
Lakshmi Building,
Usilampatti Road, Kochadai,
Madurai-16. ..Respondent

Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai Bench 'C' in I.T.A. No.67(Mds)/1993 dated 14.05.2001 for the assessment year 1988-89 against the order of the Commissioner of Income tax Appeal -I, Madurai in ITA.No. 160/91-92 dated 22.10.92 against the assessment order of Deputy Commissioner of Income Tax Special Range-I Madurai in PAN 47-016-CZ-4065/1988-98 dated 18.3.1991.

For Appellant : Mrs.Pushya Sitaraman,
Sr.Standing Counsel for
Income-tax Department

For Respondent : Mr.S.A.Balasubramanian

JUDGMENT

(Judgment of the Court was delivered by
P.P.S.Janarthana Raja, J.)

This appeal is filed under Section 260A of the Income Tax Act, 1961 by the Revenue, against the order of the Income Tax Appellate Tribunal, Chennai Bench 'C' in I.T.A. No.67(Mds)/1993 dated 14.05.2001. On 09.07.2004, this Court admitted the appeal and formulated only the following substantial question of law.

> "Whether on the facts and in the circumstances of the case the Tribunal was right in law in upholding the order of the CIT Appeals in holding that Rs.4,78,829/- spent as modernisation expense is allowable?"

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2. The facts leading to the above substantial question of law are as under:

The assessee is a company incorporated under the Companies Act. The relevant assessment year is 1988-89 and the corresponding accounting year ended on 31.03.1988. The assessee-company filed Return of income on 28.09.1988 admitting a total income of Rs.11,58,170/-. The assessment was completed under Section 143(3) of the Income-tax Act ("Act" in short) determining the total income at Rs.43,83,430/-. While completing the assessment, the Assessing Officer made a number of additions and disallowances. The assessee incurred a sum of Rs.51,06,946/- towards the cost on replacement of machineries, the details of which are as under:-

"LMW open end machine:	Rs.19,69,871
Ring frames % 3 Nos.:	Rs.13,06,680
Winder 1 No:	Rs. 3,80,625
Electronic yarn clearer & Tensione Brackets:	Rs. 4,78,829
Comber 1 No:	Rs. 7,69,417
Draw frame 1 No:	Rs. 2,01,524
Total:	Rs.51,06,946 "

The assessee claimed the above expenditure as revenue expenditure. The Assessing Officer held that, these assets brought an enduring benefit to the assessee and hence treated the expenditure as capital. Aggrieved by the order, the assessee filed an appeal to the Commissioner of Income-tax (Appeals). The C.I.T.(A) allowed the appeal and directed the Assessing Officer to grant relief as claimed by the assessee. Aggrieved, the Revenue filed an appeal to the Income-tax Appellate Tribunal ("Tribunal" in short). The Tribunal dismissed the appeal and confirmed the order of the C.I.T.(A). Aggrieved by the order, the present tax case is filed by the Revenue.

3. It is submitted that the question of law stands covered by this Court judgment reported in 275 ITR 403 in the case of Commissioner of Income-tax Vs. Janakiram Mills Ltd.

4. Following the same, we answer the question of law in favour of the assessee and against the Revenue. Accordingly, the tax case is dismissed. No costs.

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Sd/
Asst. Registrar

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Sub Asst.Registrar

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To

1. The Commissioner of Income Tax (Appeals _I)
Madurai.

2. The Duputy Commissioner of Income tax, Special Range-I
Madurai.

3. The Assistant Registrar
Income Tax Appellate Tribunal
Rajaji Bhavan, Besand Nagar, Chenai90.
+ One cc to M/s Pusya Sitaraman, SCGSC SR 27434

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